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Message Text

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ORIGIN DLOS-06

INFO OCT-01 AF-10 EUR-25 EA-11 IO-14 ISO-00 PM-07 L-03

NSC-10 CIAE-00 DODE-00 INR-10 NSAE-00 PA-04 RSC-01

USIA-15 PRS-01 SPC-03 COA-02 COME-00 INT-08 DOTE-00

TRSE-00 OMB-01 CG-00 EB-11 FAA-00 SCI-06 NSF-04 AGR-20

FMC-04 ACDA-19 /196 R

DRAFTED BY D/LOS:OESKIN:CW
APPROVED BY D/LOSSHMCINTYRE
L/OA:TLEITZELL
S/FW-COA:MBUSBY (DRAFT)
IO/UNP:TSCULLY (DRAFT)
DOD:COL.FFEDELE (DRAFT)
COMMERCE:GTAFT (DRAFT)
INTERIOR:WRIGHT (DRAFT)
TRANSPORTATION:PYOST (DRAFT)
TREASURY:BPETROU (DRAFT)
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R 010214Z DEC 73
FM SECSTATE WASHDC
TO AMEMBASSY MOGADISCIO
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E.O. 11652 GDS

TAGS: PBOR, UN, SO

SUBJ: LOS: SOMALI EXTENSION OF TERRITORIAL SEA

REF: MOGADISCIO 1676, 1720

SUMMARY: EMBASSY MOGADISCIO SHOULD DETERMINE WHETHER GSDR INTENDS TO RETAIN LEGISLATION ON EXTENSION OF TERRITORIAL SEA AND IF SO TO PROTEST SUCH LEGISLATION. END SUMMARY.

1. DEPT WOULD VIEW WITH GREAT CONCERN ANY CLAIM BY GSDR EXTENDING TERRITORIAL SEA TO 200 MILES. USG CONSIDERS THAT UNDER INTERNATIONAL LAW A STATE CANNOT CLAIM A TERRITORIAL SEA BROADER THAN THREE NAUTICAL MILES OR A CONTIGUOUS ZONE, INCLUDING EXCLUSIVE FISHING JURISDICTION, EXTENDING MORE THAN NINE MILES BEYOND THE THREE-MILE TERRITORIAL SEA. US OPPOSES UNILATERAL EXTENSIONS OF JURISDICTION BEYOND LIMITS PERMITTED BY INTERNATIONAL LAW, AND WOULD NOT RECOGNIZE ANY SUCH CLAIMS. WE BELIEVE THESE ISSUES SHOULD BE RESOLVED MULTILATERALLY. IT WOULD BE PARTICULARLY REGRETTABLE IF SUCH AN EXTREME UNILATERAL CLAIM WERE TO BE MADE DURING LOS CONFERENCE WHICH BEGINS DEC. 3, IN NEW YORK. SUCH UNILATERAL CLAIMS CAN HAVE DAMAGING EFFECT ON THESE NEGOTIATIONS AND HARM INTER-NATIONAL COMMUNITY INTERESTS.

2. EMBASSY SHOULD ATTEMPT TO DETERMINE EXACT STATUS OF 200-MILE LEGISLATION AND OF POSSIBLE NEW OR SUBSTITUTE LAW. IF 200-MILE TERRITORIAL SEA LAW HAS BEEN OR WILL SHORTLY BE WITHDRAWN, EMBASSY SHOULD INDICATE USG GRATIFICATION AT RECONSIDERATION BY GSDR ON THIS IMPORTANT ISSUE. EMBASSY SHOULD STRESS THAT US HOPES THAT GSDR WILL TAKE INTO CONSIDERATION FACTORS OUTLINED PARA 1 AND IMPORTANCE OF ORDERLY AND EQUITABLE DEVELOP-

MENT OF INTERNATIONAL LAW. LOS CONFERENCE PROVIDES AN OPPORTUNITY FOR ALL COUNTRIES TO PARTICIPATE IN LAW MAKING PROCESS AND TO ACCOMMODATE THE DIVERSE INTERESTS INVOLVED. UNILATERAL CLAIMS COULD MAKE THE TASK OF REACHING AGREEMENT MORE DIFFICULT AND CREATE THE POSSIBILITY OF CONFLICT AMONG STATES. EMBASSY SHOULD URGE THAT GSDR TAKE NO UNILATERAL ACTION ASSERTING NEW CLAIMS.

3. SHOULD EMBASSY DETERMINE THAT NO NEW LAW IS BEING PREPARED AND THAT 200-MILE TERRITORIAL SEA CLAIM WILL REMAIN ON BOOKS OR THAT CONTEMPLATED NEW LEGISLATION WILL

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ALSO CONTAIN EXTREME CLAIM TO OCEAN SPACE EMBASSY SHOULD
DELIVER FOLLOWING NOTE.

4. BEGIN TEXT: (COMPLIMENTARY OPENING)...AND REFERS TO
THE DECREE OF (OFFICIAL TITLE, NUMBER OF OTHER APPRO-
PRIATE IDENTIFYING DATA), EFFECTIVE (DATE), WHICH
PURPORTS TO EXTEND THE TERRITORIAL WATERS OF SOMALI
DEMOCRATIC REPUBLIC TO A DISTANCE OF 200 NAUTICAL MILES.
THE UNITED STATES GOVERNMENT DEEPLY REGRETS THAT THE
GOVERNMENT OF SOMALIA HAS SEEN FIT UNILATERALLY TO MAKE
THIS CLAIM. IT IS PARTICULARLY UNFORTUNATE THAT THIS
ACTION HAS BEEN TAKEN AT A TIME WHEN THE UNITED NATIONS
IS ENGAGED IN MAJOR INTERNATIONAL CONFERENCE ON THE LAW
OF THE SEA WHICH WILL ASSURE PROTECTION OF VITAL IN-
TERESTS OF ALL CONCERNED STATES OF THE WORLD THROUGH A
BROADLY-BASED, MULTILATERAL AGREEMENT. UNILATERAL CLAIMS
MAKE THE TASK OF REACHING INTERNATIONAL AGREEMENT MORE
DIFFICULT AND CREATE THE POSSIBILITY OF CONFLICT BETWEEN
STATES. THE USG OPPOSES AND DOES NOT RECOGNIZE 200-MILE
CLAIMS OF ANY TYPE OR ANY OTHER UNILATERAL CLAIMS TO A
TERRITORIAL SEA BEYOND 3 MILES. WE WISH TO EMPHASIZE
THAT ANY SUCH UNILATERAL CLAIM RESTS ON THE UNACCEPTABLE
ASSUMPTION THAT STATES ARE FREE TO APPROPRIATE THE HIGH
SEAS AS THEY SEE FIT. UNDER PRESENT INTERNATIONAL LAW
THE US IS UNDER NO OBLIGATION TO RECOGNIZE UNILATERAL
EXTENSIONS OF THE TERRITORIAL SEA BEYOND THREE MILES.
MOREOVER, INTERNATIONAL LAW ONLY PERMITS THE ESTABLISHMENT
OF A CONTIGUOUS ZONE, INCLUDING ONE FOR EXCLUSIVE FISHING,
UP TO 12 MILES FROM THE COAST OR APPROPRIATE BASELINE.
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AS THE INTERNATIONAL COURT OF JUSTICE STATED IN THE
ANGLO-NORWEGIAN FISHERIES CASE, THE VALIDITY OF THE DE-
LIMITATION OF A STATE'S SEA AREAS WITH RESPECT TO
OTHER STATES DEPENDS UPON INTERNATIONAL LAW NOT THE WILL
OF THE COASTAL STATE AS EXPRESSED IN ITS MUNICIPAL LAW.
THE UNITED STATES GOVERNMENT PROTESTS THE SOMALI DECREE
AND RESERVES ITS RIGHTS AND THOSE OF ITS NATIONALS IN ALL
AREAS BEYOND THE THREE MILE TERRITORIAL SEA AFFECTED BY
THIS DECREE.

THE UNITED STATES GOVERNMENT NOTES THAT THE BREADTH OF
THE TERRITORIAL SEA DOES NOT LIMIT THE JURISDICTION OF
STATES OVER RESOURCES. THUS, A COASTAL STATE MAY EXERCISE
RIGHTS IN A ZONE EXTENDING TWELVE MILES FROM THE BASELINE
FROM WHICH THE BREADTH OF THE TERRITORIAL SEA IS MEASURED.
CONSIDERABLY GREATER COASTAL STATE RIGHTS OVER FISHERIES
ARE BEING DISCUSSED IN THE LAW OF THE SEA NEGOTIATIONS AS
PART OF AN OVERALL LAW OF THE SEA SETTLEMENT. IN
ADDITION, PURSUANT TO THE CONVENTION ON THE CONTINENTAL
SHELF, COASTAL STATES NOW ENJOY, BEYOND THE TERRITORIAL

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SEA, EXCLUSIVE SOVEREIGN RIGHTS OVER THE ADJACENT CONTINENTAL SHELF FOR THE PURPOSE OF EXPLORING IT AND EXPLOITING ITS NATURAL RESOURCES OUT TO A DEPTH OF 200 METERS OR WHERE THE SUPERJACENT WATERS PERMIT EXPLOITATION OF THE RESOURCES. EXTENSION OF THE TERRITORIAL SEA IN ORDER TO ACHIEVE JURISDICTION OVER RESOURCES IS ACCORDINGLY UNNECESSARY AND, BECAUSE IT PURPORTS TO AFFECT THE FREEDOMS OF NAVIGATION AND OVERFLIGHT OF OTHER MEMBERS OF THE INTERNATIONAL COMMUNITY, UNDESIRABLE.

THE US BELIEVES UNILATERAL ASSERTIONS OF JURISDICTION OVER MARINE AREAS WILL ADVERSELY AFFECT PRESENT EFFORTS TO ACHIEVE AT THE LAW OF THE SEA CONFERENCE A COMPREHENSIVE INTERNATIONAL AGREEMENT DEALING WITH SUCH QUESTIONS AS THE BREADTH OF THE TERRITORIAL SEA, TRANSIT THROUGH AND OVER INTERNATIONAL STRAITS, THE LIMITS AND NATURE OF COASTAL STATE JURISDICTION WITH RESPECT TO LIVING AND NON-LIVING MARINE RESOURCES, A REGIME FOR THE SEABEDS, PROTECTION OF THE MARINE ENVIRONMENT, AND THE CONDUCT OF MARINE SCIENTIFIC RESEARCH.
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THE US STRONGLY HOLDS THAT UNILATERAL CLAIMS ARE NOT IN THE INTEREST OF ANY NATION OR OF THE INTERNATIONAL COMMUNITY. ALL STATES HAVE A SHARED INTEREST IN DEVELOPING A RATIONAL AND EQUITABLE REGIME FOR THE OCEANS AND COMMON HERITAGE AND AN EQUAL INTEREST IN PREVENTING SERIOUS OBSTRUCTION TO INTERNATIONAL MARITIME NAVIGATION. THE SUREST WAY TO ACHIEVE THESE SHARED OBJECTIVES IS

THROUGH MULTILATERAL AGREEMENT. END TEXT.

5. IF NOTE IS DELIVERED, EMBASSY SHOULD AT HIGHEST APPROPRIATE LEVEL INDICATE USG STRONG CONCERN WITH GSDR ACTION. EMBASSY SHOULD STATE THAT USG AND MOST OTHER NATIONS DO NOT AND WILL NOT RECOGNIZE UNILATERAL CLAIMS SUCH AS THAT BEING MADE BY GSDR AND THAT SUCH CLAIMS CONTRAVENE ESTABLISHED INTERNATIONAL LAW. US IS ESPECIALLY CONCERNED AT SUCH UNILATERAL CLAIMS DURING UN LOS CONFERENCE (DECEMBER 3 - 14 IN NEW YORK, JUNE 20 - AUGUST 29, 1974 IN CARACAS). SUCH CLAIMS CAN ONLY MAKE NEGOTIATIONS AND ACCOMMODATION MORE DIFFICULT WITH CONSEQUENTLY GREATER OBSTACLES TO ACHIEVING THE REAL INTERESTS OF ALL NATIONS INCLUDING GSDR. EMBASSY SHOULD URGE THE GSDR RECONSIDER ITS ACTION.

6. FOR EMBASSIES LONDON, PARIS, BONN, MOSCOW, ROME: YOU SHOULD INFORM APPROPRIATE FONMIN OFFICIALS OF GSDR ACTION AND OF US RESPONSES AND ENCOURAGE HOST GOVERNMENT TO TAKE SIMILAR ACTION IF THEY HAVE NOT ALREADY DONE SO. RUSH

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To: MOGADISCIO
PARIS
LONDON
MOSCOW
BONN
TOKYO

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